

HOUSE BILL REPORT

SSB 6253

As Reported by House Committee On:
Public Safety & Emergency Preparedness

Title: An act relating to seizure and forfeiture.

Brief Description: Concerning seizure and forfeiture of property in commercial sexual abuse of a minor, promoting commercial sexual abuse of a minor, and promoting prostitution in the first degree crimes.

Sponsors: Senate Committee on Judiciary (originally sponsored by Senators Eide, Kline, Regala, Shin, Kohl-Welles, Litzow, Chase, Stevens, Nelson, Keiser, Roach and Conway).

Brief History:

Committee Activity:

Public Safety & Emergency Preparedness: 2/15/12, 2/21/12 [DP].

Brief Summary of Substitute Bill

- Allowing for civil forfeiture of the proceeds of or property traceable to Commercial Sexual Abuse of a Minor, Promoting Commercial Sexual Abuse of a Minor, or Promoting Prostitution in the first degree.

HOUSE COMMITTEE ON PUBLIC SAFETY & EMERGENCY PREPAREDNESS

Majority Report: Do pass. Signed by 11 members: Representatives Hurst, Chair; Ladenburg, Vice Chair; Pearson, Ranking Minority Member; Klippert, Assistant Ranking Minority Member; Appleton, Armstrong, Goodman, Hope, Kirby, Moscoso and Ross.

Staff: Sarah Koster (786-7303).

Background:

Washington's civil forfeiture laws allow for forfeiture and seizure of property or assets gained through criminal offenses or which were used to facilitate commission of a criminal offense. Forfeiture provisions exist with regard to many different offenses, including: controlled substance offenses, gambling, fish and wildlife enforcement code violations, money laundering, telecommunications crimes, and all felonies.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Additionally, the law provides for forfeiture for any crime for which there is a victim, with the proceeds going to compensate the victim.

Summary of Bill:

The following property is subject to seizure and forfeiture:

1. property acquired or maintained with funds stemming from Commercial Sexual Abuse of a Minor, Promoting Commercial Sexual Abuse of a Minor, or Promoting Prostitution in the first degree;
2. conveyances used, or intended for use, to facilitate the commission of Commercial Sexual Abuse of a Minor, Promoting Commercial Sexual Abuse of a Minor, or Promoting Prostitution in the first degree if:
 - a. the owner is knowingly involved or liable for the offense, and
 - b. the conveyance is seized within 10 days of the owner's arrest;
3. any property, contractual right, or claim against property used to influence any enterprise that a person has established, operated, controlled, conducted, or participated in the conduct of, in violation of Commercial Sexual Abuse of a Minor, Promoting Commercial Sexual Abuse of a Minor, or Promoting Prostitution in the first degree;
4. all proceeds traceable to an offense constituting Commercial Sexual Abuse of a Minor, Promoting Commercial Sexual Abuse of a Minor, or Promoting Prostitution in the first degree;
5. all books and materials used in the commission of Commercial Sexual Abuse of a Minor, Promoting Commercial Sexual Abuse of a Minor, or Promoting Prostitution in the first degree; and
6. any real property which is used for or acquired with proceeds traceable to Commercial Sexual Abuse of a Minor, Promoting Commercial Sexual Abuse of a Minor, or Promoting Prostitution in the first degree, if:
 - a. the owner is knowingly involved or liable for the offense, and
 - b. the interests of any innocent person with secured interest in the property are protected.

Property subject to forfeiture may be seized by a law enforcement officer upon process issued by the superior court except that personal, or non-real estate, property may be seized based upon an officer's probable cause determination or incident to arrest or a search warrant. Anyone claiming ownership or right to possession of the property seized is entitled to a hearing before the chief law enforcement office of the seizing agency or, upon motion of the person, before a court. The agency bears the burden to establish that the property is subject to forfeiture and, if they cannot meet that burden, the claimant is entitled to attorney's fees.

Property seized under this section shall be sold, with the proceeds remitted to the Prostitution Prevention and Intervention Account, unless the law requires that the property be destroyed.

The proceeds may also be used to compensate a landlord whose property is damaged through a law enforcement search of a tenant's property if the landlord can establish that the damages exceed the funds remaining in the tenant's deposit and the landlord did not know of or ignore the tenant's illegal actions.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) This is part of a package of 10 bills with bipartisan support. The 2012 legislative session is the tenth anniversary of Washington's first anti-trafficking legislation. Washington has led the way for the country on this issue. These bills will reduce the harm of childhood sexual abuse. Human trafficking is a human rights issue.

(In support with concerns) This bill should include Promoting Prostitution, so the pimps' assets are vulnerable to seizure too. There should be greater victim input.

(Opposed) None.

Persons Testifying: (In support) Senator Jeanne Kohl-Welles; Velma Veloria and Sutapa Basu, University of Washington Women's Center; Emma Catague, Asian and Pacific Islander Women and Family Safety Center; Seth Dawson, Youth Care and Child Advocacy Centers; and Craig Engelking and Jim Pugel, City of Seattle Police Department.

(In support with concerns) Chris Johnson, Office of the Attorney General; and Rose Gunderson, Washington Engage.

Persons Signed In To Testify But Not Testifying: None.